

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN WORTHINGTON,
PLAINTIFF,

v.

WASHINGTON STATE ATTORNEY
GENERALS OFFICE, et al
DEFENDANTS,

No.C10-00118 JLR

MOTION AND MEMORANDUM
OF SUPPORT FOR PRELIMINARY
INJUNCTION

ORAL ARGUMENT REQUEST

NOTE ON MOTION CALENDER

MARCH 12, 2010

Plaintiff John Worthington moves this Court for a preliminary injunction, requiring
Defendants, Washington State Attorney General et al, to:

1. Cease and desist from working under the Tahoma Narcotics Enforcement Team
(TNET) interlocal agreements and any other agreements to be under the control any federal
agency;
2. Cease and desist from using forward looking infra –red (FLIR) on non-target
residential housing without the signed consent of non- target housing residents or probable
cause;
3. Cease and desist from converting Washington State National Guard in title 32

1 status under the command and control of the Governor of Washington State into a federal status
 2 in title 10, without an official request by the Governor of Washington State to the President for
 3 U.S. Military assistance;

4 4. Cease and desist from using Washington State agencies, and tax dollars work to
 5 for the U.S. Department of Defense or the U.S. Department of Justice in Washington State police
 6 actions; and

7
 8 5. Not destroy any of the following:

9 (a) All records, including but not limited to email, correspondence,
 10 memoranda and notes, created or obtained before during and after the raid on John Worthington
 on January 12, 2007

11 (b) All records of correspondence or other communication, including but
 12 not limited to email, correspondence, memoranda and notes, to or from
 any federal agency or employee thereof relating to the raid on John Worthington on January
 13 12, 2007

14 (c) All records of correspondence or other communication, including but
 15 not limited to email, correspondence, memoranda and notes, to or from
 any state or local agency or employee thereof relating the raid on John Worthington on January
 16 12, 2007

17 (d) All records of correspondence or other communication, including but
 18 not limited to email, correspondence, memoranda and notes, to or from
 any multi-agency and/or multi-jurisdictional drug task force or employee thereof relating to the
 19 raid on John Worthington on January 12, 2007; and

20 Plaintiff incorporates into this motion the declaration of John Worthington and all
 21 exhibits attached thereto.

22 INTRODUCTION

23 The Defendants participating in the Tahoma Narcotics Enforcement Team, (heretofore)
 24 TNET), claim to be working for the federal government in a federal status for the U.S.
 25 Department of Justice. The Defendants have signed federal grants which require statements of
 26 assurances to uphold all federal laws, federal statutes and executive orders. The Defendants have

1 also entered into interlocal agreements which cross designate state, county and city employees as
2 federal agents, and signed regional task force agreements to work for the DEA. The defendants
3 themselves have even admitted to working under contract for the U.S Department of justice.

4 However, in 2006, the federal funding was reduced to the point of having to shut down
5 the Washington State Multi jurisdictional drug task forces program, so the State of Washington
6 saved these federally leveraged Washington State multi jurisdictional drug task forces using
7 Washington State tax dollars, to allow them to continue on in a now state sponsored “federal”
8 status ,to leverage themselves to continue working for the “U.S. Department of Justice” and
9 enforce a federal drug control policy. These now Washington State leveraged state, county and
10 city “U.S Department of Justice” defendants have stated that they will “seize medical marijuana
11 regardless of plant limit thresholds”.

12 The Washington State Military Department and Washington State Attorney General’s
13 office Defendants have also stated that the Washington State National Guard is a federal program
14 of federal employees working in a federal status, without the Governor having declared an
15 emergency or making a request for U.S Military assistance, and declaring that the Washington
16 State Military Department is immune from Washington State laws. In addition, the Defendants
17 have been using forward looking infra red (FLIR), without warrants, signed consent or probable
18 cause on Worthington and non target residential housing, and in annual sweeps to view outdoor
19 marijuana grows..

20 Unless this court intervenes, Worthington and thousands of Washington State medical
21 marijuana patients will be irreparably harmed and stand to lose the right to treat their conditions,
22 and long term pain management with medical marijuana. In addition, without court intervention,
23 defendants will be unjustly converting Washington State National Guard members into a federal
24 status in title 10 in violation of the Posse Comitatus Act, and using FLIR in violation of the U.S
25 Supreme Court, and Washington State Supreme Court Rulings.

1 The Plaintiff has filed a Complaint against Defendant for 1) Tort Damages.
2 Declaratory, Prospective and Injunctive relief. Worthington seeks a preliminary injunction to
3 preserve the status quo and prevent Worthington and others similarly situated from having to
4 suffer irreparable harm pending the outcome at trial.

5 FACTS

6 The federal government and state drug control agencies met in 1996 to discuss
7 the medical marijuana initiatives. In that meeting it was determined that the federal
8 government did not want to amend 21 U.S.C. § 903 of the federal controlled substances act,
9 because they did not have the resources to enforce a federal drug control policy thru the federal
10 courts. In addition, the federal drug control agencies did not want the federal drug control policy
11 to be implemented by the federal government because it would seem like outside interference, so
12 ultimately it was determined that federal grant funds would be conditioned on states enforcing a
13 federal drug control policy, and by using federally cross designated state, county and city
14 law enforcement officers to seize medical marijuana for the DEA, and refer cases to the
15 federal courts where special consideration is given to those cases, despite the fact that the
16 federal courts turn down 80 percent of the drug smuggling cases out of Canada. (See
17 Exhibit 1 in the Declaration of John Worthington)

18
19 The following agencies entered into an interlocal agreement in 1998 entitled the
20 Tahoma Narcotics Enforcement Team. Pierce County Sheriff's Office, Puyallup Police
21 Department, Sumner Police Department, Washington State Patrol, Pierce County
22 Prosecutors office, DEA, Tacoma Police Department, and the Bonney Lake Police
23 Department. (See Exhibit 2 in the Declaration of John Worthington)

24
25 Each TNET participating agency has conceded state authority to the DEA, in the
26

1 Tacoma Regional Drug task force agreement. The Injunction should also be granted for
2 any Washington State multi jurisdictional drug task force which also has the same
3 distinction as a DEA or federal drug task forces operating within the state framework out of the
4 Safe and Drug Free Communities unit of the Washington Department of Commerce, formerly
5 CTED, These Task forces are supposed to be supervised by the Washington State Patrol,
6 according to the CTED website ,and a legislative mandate that created RCW 43.43.655.
7 (See Exhibit 3 in the Declaration of John Worthington)

8
9 The Washington State Patrol has claimed that its participating members of TNET
10 are part of a federal entity and are federal employees. (See Exhibit 4 in the Declaration of
11 John Worthington)

12
13 All of the HIDTA federal grant recipients in Washington State are required to sign
14 statements of assurances which basically state that they have to enforce all federal laws,
15 statutes and executive orders, these statement of assurances could only be interpreted to mean
16 that the grantee works for the U.S Department of Justice. (See Exhibit 5 in the Declaration of
17 John Worthington)

18
19 Federal funding for the Washington State multi jurisdictional drug task force
20 program had been reduced to the point of having to shut down the program. The State of
21 Washington had to restore lost federal funding just to keep the Washington State Multi
22 jurisdictional drug task forces operating , effectively converting the federally funded federal drug
23 control policy preemption to state funded federal control policy preemption. (See Exhibit 6 in the
24 Declaration of John Worthington)

1 The TNET Executive Board has declared that TNET will seize medical marijuana
2 despite state medical marijuana thresholds. This TNET document also refers to the U.S.
3 Department of Defense looking into Worthington's case, and shows that the U.S.
4 Department of Defense was not acting on a request to use military Support by a
5 Washington State counter drug agency. When warrants for requests to use military assets
6 were requested, none were produced. This could only mean that the U.S. Department of
7 Defense was leading the investigation or conducting its own investigation. (See Exhibit 7
8 in the Declaration of John Worthington)

9
10 Worthington has obtained a policy statement in a Washington State public
11 record case from the Washington State Military Department, stating that the Washington
12 State Counter drug program is a federal program of federal employees. This policy
13 statement is in direct conflict with the Posse Comitatus Act, which forbids the U.S.
14 Military from being in a state police action. (See Exhibit 8 in the Declaration of John
15 Worthington)

16
17 The Washington State Supreme Court ruling in State v. Young, 867 P.2d 593 (Wash.
18 1994) and Kyllo v. United States, 533 U.S. 27 (2001) requires a warrant to
19 establish probable cause to use flir.(See Exhibit 9 in the Declaration of John Worthington)

20
21 The practice of establishing probable cause to use FLIR on target housing should
22 not be reason and probable cause to use FLIR on non target housing. Those Random non
23 target citizens have reasonable expectation of privacy in their own homes. Payton v.
24 New York, 445 U.S. 573, 589, 63 L. Ed. 2d 639, 100 S. Ct. 1371 (1980). In some cases
25 multiple random non target residential housing is viewed to compare to the target house.
26

1 Worthington has obtained numerous warrants to use FLIR which show a pattern and
 2 practice of using FLIR on non target housing without establishing probable cause for the
 3 non target housing, and using FLIR for more than questionable annual sweep searches
 4 for outdoor marijuana grows. In addition, FLIR was most likely used on Worthington
 5 without a warrant (See Exhibit 10 in the Declaration of John Worthington)

6
 7 TNET was not meant to be a separate legal entity subject to suit. (Eversole v.
 8 Steele), 59 F.3d 710 (7th Cir. 1995); Hervey v. Estes, 65 F.3d 784, 792 (9th Cir. 1995);
 9 Dillon v. Jefferson County Sheriff's Department, 973 F. Supp. 626 (E.D. Tex. 1997);
 10 Alexander v. City of Rockwall, No. CIV. A. 3:95CV-0489, 1998 WL 684255 (N.D.
 11 Tex., Sept. 29, 1998), Timberlake by Timberlake v. Benton, 786 F. Supp. 676, 682-88
 12 (M.D.Tenn.1992)). Therefore, TNET can only proceed in a legal action in a joint or cooperative
 13 undertaking, and not proceed in any action as a legal "federal entity" Further, *Hervey* cites two
 14 cases Lake Country Estates, Inc. v. Tahoe Regional Planning Agency, 440 U.S. 391, 401 n. 20,
 15 99 S. Ct. 1171, 1177 n. 20, 59 L.Ed.2d 401 (1971) and Peters v. Delaware River Port Authority,
 16 16 F.3d 1346, 1349-52 (3d Cir.), cert. denied, -U.S. ----, 115 S. Ct. 62, 130 L.Ed.2d 20 (1994),
 17 the Supreme Court and Third Circuit respectively, concluded that intergovernmental agencies
 18 were entities subject to suit. In both cases however, the agencies were created or approved by
 19 acts of state legislatures. *Hervey* found that TNET has no such pedigree, ruling the agreement
 20 creating TNET does not indicate from what authority it springs. "Absent some indication from
 21 either state law or from the enabling document that anyone intended TNET to be a formal
 22 independent entity, such as the entities in Tahoe and Peters". TNET also has a Joint Board in
 23 accordance with RCW 39.34.030 with state, county and city participating members whose
 24 employment status is not altered by an agreement to put the DEA in charge of TNET. The
 25 Regional drug task force agreement is not an act of the Washington State legislature which
 26 would enable TNET to function as a "federal entity" The only clear legislative intent to manage

1 Washington State multi jurisdictional drug task forces is in RCW 43.43.655: A special narcotics
 2 enforcement unit is established within the Washington state patrol drug control assistance unit.
 3 The unit shall be coordinated between the Washington state patrol, the attorney general, and the
 4 Washington Association of Sheriffs and Police Chiefs. The initial unit shall consist of attorneys,
 5 investigators, and the necessary accountants and support staff. It is the responsibility of the unit
 6 to: (1) Conduct criminal narcotic profiteering investigation and assist with prosecutions, (2) train
 7 local undercover narcotic agents, and (3) coordinate federal, state, and local interjurisdictional
 8 narcotic investigations.(See Exhibit 11 in the Declaration of John Worthington)

9 ARGUMENT

10 “A plaintiff seeking a preliminary injunction must establish that he is likely to
 11 succeed on the merits, that he is likely to suffer irreparable harm in the absence of
 12 preliminary relief, that the balance of equities tips in his favor, and that an injunction
 13 is in the public interests”. Winter v. Natural Resources Defense Council, Inc 129 S. Ct.
 14 365,374 (2008)

15 LEGAL STANDARD

16 The Ninth Circuit recognizes two tests for demonstrating preliminary injunctive relief.
 17 The traditional test or alternative sliding scale test. Casim v. Bowen 824 F .2d 791,795
 18 (9th Cir. 1987). In the traditional test the plaintiff must show : (1) Whether the plaintiff
 19 has a substantial likelihood of success of the merits; (2) Whether the plaintiff would
 20 suffer irreparable injury were an injunction not granted; (3) Whether an injunction would
 21 substantially injure other interested parties; and (4) Whether the grant of an injunction
 22 would further the public interests (in certain cases) save our Sonoran, Inc v. Flowers 408
 23 F.3d 1113,1120 9th Cir.2005.Where a party demonstrates that a public interest is
 24 involved, a court must examine whether the public interest favors the Plaintiff. Fund for
 25 Animals Inc. v. Lujan 962 F .2d 1391, 1400 (9th cir.1992)

1 Alternatively a party seeking injunctive relief must show: (1) a combination of
 2 likelihood of success on the merits and the possibility of irreparable harm, or (2) that
 3 serious questions going to the merits are raised and the balance of hardships tip sharply
 4 in favor of the Plaintiff. Immigrant Assistance project of the L.A. County of Fed'n labor
 5 v. INS, 306 F. 3d 873 9th cir.2002), Sun Microsystems Inc v. Microsoft Corp. 188 F.3d
 6 1115, 1119 (9th cir.1999), Roe v. Anderson 134 F.3d 1400, 1402 (9th cir.1998)” ‘These
 7 two formulations above represent two points on a sliding scale in which the required
 8 degree of irreparable harm increases as the possibility of success decreases.’ “ *Roe, 134 F*
 9 *.3d at 1402 (quoting U.S. v. Nutri-cology, Inc. 982 F.2d 394,397 (9th Cir.); accord U.S. v.*
 10 *Sun Microsystems, 188 F .3d at 1119 “Thus the greater the relative hardship to the*
 11 *moving party, the less probability of success must be shown.’ “Sun Microsystems, 188 F*
 12 *.3d at 1119. (Quoting Nat’l Ctr. for Immigrants rights v.INS), 743 F.2d 1365, 1369 (9th*
 13 *cir.1984)*

14 LIKELIHOOD OF SUCCESS ON THE MERITS

15
 16
 17 Worthington has obtained meeting minutes from the federal drug control agencies et
 18 al, meeting in 1996 to discuss the implementation of the state medical marijuana laws.
 19 These documents uncover a policy statement on how to deal with the state medical
 20 marijuana initiatives. The intentions of the federal government to condition federal funds
 21 on states enforcing a federal drug control policy, will make it impossible for the
 22 Defendants to explain TNET policy as random case by case policy or a coincidental
 23 unintended action. Further, due to the Washington State Controlled Substances Act
 24 Washington State law enforcement already had the legal framework to confiscate
 25 marijuana. What they did not have was the legal framework to confiscate medical
 26

1 marijuana. Therefore, the only purpose for the TNET interlocal agreement, and similar
 2 agreements was to give Washington State Law enforcement the legal framework to
 3 confiscate medical marijuana for the DEA. Worthington has also obtained policy
 4 statements from TNET executive board meeting on February 14, 2007 showing the
 5 description of the policy that can only be interrupted to mean that TNET will confiscate
 6 medical marijuana regardless of “plant limit thresholds” This policy statement as written
 7 will be impossible for TNET to dismiss as random case by case policy. Further, since
 8 most marijuana cases are prosecuted in the state court systems, cross designation to
 9 proceed in a federal status would only be necessary to prosecute medical marijuana
 10 cases in a federal court in an end run around the medical marijuana initiative. In fact most
 11 of the drug smuggling cases out of Canada are handled by the state court system.

12 Prior to the meeting in 1996 in California by federal, state drug control agencies,
 13 U.S. Congressmen and non -profit to implement the medical marijuana initiatives, the
 14 policy of cross designating drug task forces did not exist. The TNET interlocal agreement is
 15 proof that cross designation of state and local law enforcement was initiated in June of 1998, the
 16 same month the Washington State medical marijuana initiative went into effect, and after
 17 the meetings in 1996.

18 Qualified immunity is lost if an employee of the TNET participating agency
 19 commits an alleged constitutional violation "pursuant to a formal governmental
 20 policy or a 'longstanding practice or custom which constitutes the standard operating
 21 procedure....' " Gillette v. Delmore, 979 F.2d 1342, 1346 (9th Cir.1992), cert. denied, ---
 22 U.S. ----, 114 S. Ct. 345, 126 L.Ed.2d 310 (1993).The standard operating procedure for
 23 TNET when dealing with medical marijuana is laid out in the TNET Executive board
 24 meeting minutes from February 14,2007,which states that medical marijuana is still illegal
 25 federally and that plants will be “confiscated despite plant limit thresholds”. Even if the
 26

1 civil conspiracy to undermine the Washington State medical marijuana law can not be
2 accepted by the court, the policy statement by TNET to confiscate medical marijuana with
3 mostly state funds and resources is still negligence or outright malfeasance and should be
4 redressed by the court.

5 No public meetings have been held to discuss TNET's February 14, 2007 medical
6 marijuana policy statement which is in direct conflict of the Washington State Medical
7 Marijuana Act. Further, it is extremely doubtful that the Washington State legislature
8 would have enacted such a policy in an open rule making format, nor would the
9 legislature have assigned the coordination of federal, state and local law enforcement to
10 the DEA, after creating a legal RCW for the Washington State Patrol to perform that
11 function in RCW 43.43.655:A special narcotics enforcement unit is established within the
12 Washington state patrol drug control assistance unit. The unit shall be coordinated between the
13 Washington state patrol, the attorney general, and the Washington Association of Sheriffs and
14 Police Chiefs. The initial unit shall consist of attorneys, investigators, and the necessary
15 accountants and support staff. It is the responsibility of the unit to: (1) Conduct criminal
16 narcotic profiteering investigations and assist with prosecutions, (2) train local
17 undercover narcotic agents, and (3) coordinate federal, state, and local interjurisdictional
18 narcotic investigations. [1989 c 271 § 235]. The State of Washington even accepted a federal grant
19 to train Washington State Patrol supervisors to supervise the state multi jurisdictional drug task
20 forces..

21 In Hervey v Estes, 65 F.3d 784 (9th Cir. 1995) (holding that multi-agency drug task
22 force was "only subject to suit if the parties that created [it] intended to create a separate
23 legal entity") the Ninth Circuit ruled The agreement creating TNET does not indicate
24 from what authority it springs. Absent some indication from either state law or from the
25 enabling document that anyone intended TNET to be a formal independent entity.

1 Without any specific act from the Washington State legislature to create a U.S
2 Department of Justice entity with TNET, the WSP and other participating agencies of
3 TNET appear to have signed conflicting agreements to contradict the Ninth Circuit case law in
4 *Hervey*, state RCW 43.43.655, and the legislative intent which TNET and other Washington
5 State multi jurisdictional drug task forces were intended to operate under. It is also extremely
6 unlikely that the voters of Washington would have approved the undermining of the State
7 medical marijuana initiative using mostly Washington State funds and personnel without a knock
8 down drag out court battle or follow up initiative.

9 Without an Injunction TNET's medical marijuana policy could only be defined as
10 entrapment for Washington State medical marijuana patients, by violating a state law with state
11 funded federal preemption policy enforced by mostly state funded multi jurisdictional drug task
12 forces, implementing a federal drug control policy so it would not seem like "outside
13 interference". Worthington has obtained a complete document trail of the civil conspiracy to
14 undermine the Washington State Medical Marijuana Act. From the initial meetings in 1996 all
15 the way to the execution of the planned policies that arose from those initial meetings in
16 1996. Worthington has also obtained proof that FLIR is being used in violation of
17 Washington State and U.S. Supreme court rulings, evidence the Washington State
18 National Guard has declared a federal status, and the U.S Department of Defense
19 conducting its own police investigations of U.S. civilians. All of Worthington's causes of
20 action meet the heightened standards for injunctive relief, and Worthington can show that
21 it is likely to prevail on the merits of each cause of action.

22 Even if some of the State defendants are successful making arguments that they are
23 not subject to 1983 actions in federal court under the Eleventh Amendment, despite the
24 fact that they have made arguments that they are federal entities to avoid Washington
25 State Public Disclosure, they will most certainly be held accountable to the charges of
26

1 violating state laws.

2 IRREPARABLE INJURIES

3 Worthington has become a marked man for his medical marijuana activism.
 4 Washington State multi jurisdictional drug task forces and the Washington State National
 5 Guard have demonstrated their contempt for Worthington in public disclosure
 6 documents. In addition, Worthington has already suffered from the illegal regulation of
 7 his medical treatment, and his condition of diverticulitis must be properly managed to
 8 protect against the damages from the overuse of Pharmaceutical pain products. With
 9 these agreements to work for the DEA, TNET is able to illegally regulate medical
 10 practice, interfere with the medical treatment of a physician, exercise dominion and
 11 control over Worthington's federal and state constitutional rights, strip Worthington of
 12 his only long term option for pain management and cause Worthington to live a slow
 13 and lingering death, the very essence of irreparable injuries.

15 In this case, Defendants should not be allowed to argue that injunctive relief is not
 16 appropriate when they continue to honor the interlocal agreements, statements of
 17 assurances, and Regional Drug Task Force agreements to work for the DEA, despite
 18 being fully aware that those agreements are putting federal agents in charge. This arrangement
 19 has led to a policy statement that the defendants are going to act as a faction of the U.S
 20 Department of Justice to seize medical marijuana despite the Washington State medical
 21 marijuana law.

22 *a. Worthington has an established right to protect.*

23 Worthington has been a medical marijuana patient since 2005. Under the Washington
 24 State medical marijuana law, Worthington has a clear interest in protecting his medical treatment
 25 and rights under RCW 69.51A. Worthington and others similarly situated have a right to expect
 26

1 privacy in their own homes, and rights that prevent the U.S. Military from being used against
2 them in a state police action.

3 *b. Plaintiff has a well-grounded fear of immediate invasion of that right*

4 Worthington's declaration establishes Worthington's well-grounded fear of immediate
5 invasion of its rights. Defendant's actions have, therefore, caused more than just economic
6 harm. These actions could interfere with future medical treatment and, if allowed to continue,
7 will damage Worthington by forcing him onto pharmaceutical drugs which have already caused
8 intestinal bleeding from a condition known as diverticulitis. Consequently, Defendant's actions
9 demonstrate the potential for irreparable harm to Worthington. Defendant's actions endanger
10 the future medical treatment, personal privacy, and civil rights of Worthington and other
11 persons similarly situated.

12 SUBSTANTIALLY INJURING OTHER PARTIES

13 Injuries to state law enforcement would be self inflicted injuries caused by agreeing
14 to federal grant contracts to undermine the Washington State medical marijuana law.
15 These contracts should not have been signed nor should they have been approved as to
16 form by the Washington State Attorney Generals office. Thousands of medical marijuana
17 patients would be protected from a federal preemption which would not exist had it not
18 been for the restoration of lost federal funding by the State of Washington. The will of the
19 majority of Washington State voters would be upheld, and there would no longer be
20 injuries to Washington State tax payers whom have had their state tax dollars diverted for
21 federal preemption purposes.

22 ADVANCEMENT OF PUBLIC INTERESTS

23 The Washington State voters approved the use of medical marijuana for qualifying
24 conditions. The will of the people must be upheld and protected. As an example, if this
25 issue involved the smoking initiative, the state counties and cities would have already
26

1 filed an injunction to force the full enforcement of the smoking initiative. However, the
2 Medical marijuana initiative seems to be the red headed step child initiative for the
3 Washington State Attorney Generals office, which has decided to side with their
4 “Colleagues” in law enforcement and allow violations of the Washington State medical
5 marijuana law, at the expense of the very tax payers that voted to pass the medical marijuana
6 initiative. To have an initiative win the approval of the majority and not be adhered
7 to by law enforcement is the epitome of malfeasance. The end result of this malfeasance is
8 Entrapment, which could not be accomplished without the funding and resources of Washington
9 State.
10

11 On the one hand Washington State has a law to allow the use of medical marijuana,
12 while on the other state funds are being spent to undermine it, so the state can get less than
13 one third of the money from the federal government to employ its own law enforcement to
14 enforce a federal drug control policy so it does not seem like “outside interference”
15 The state public interests of medical marijuana rights favor Worthington, since growing
16 medical marijuana for medical use is codified state law, and the federal drug control
17 policy is not. The majority of Washington State residents would not approve of using state
18 tax dollars to enforce a federal drug control policy. The privacy of Washington State
19 citizens in their own homes is being compromised by FLIR use, which has skirted the
20 intent of our state and federal constitution rights protected by Kyllo v. United States, 533
21 U.S. 27 (2001) and State v. Young, 867 P.2d 593 (Wash. 1994). In addition, the right to
22 be free of having the U.S. Military used against U.S citizens as is required under the Posse
23 Comitatus Act is also at stake.
24

25 BALANCE OF HARSHIPS
26

1 The defendants have agreed to use Washington State tax dollars and Washington State
2 personnel to undermine the Washington State medical marijuana law for the federal
3 government, in exchange for federal funding which is no longer capable of sustaining the
4 federal grant contracts, that were created by the federal government to preempt the
5 Washington State medical marijuana law in 1996. The federal government is a two bit
6 player in enforcing controlled substances, and does not have the resources to install a top
7 down system of control. Due to that lack of federal resources to install a top down system
8 of control, the federal government has chosen not to amend 21 U.S.C. Sec. 903 of the
9 federal Controlled Substances Act, and has decided to use conditioned federal grants to
10 leverage Washington State into enforcing a federal drug control policy which does not
11 include medical marijuana.

12 So if this motion is granted, the hardships suffered by the defendants will be
13 the inability to divert scarce state funding to continue the federal preemption of the state
14 medical marijuana law, which has lost the financial wherewithal to continue on without
15 the State of Washington restoring lost federal grant funding with Washington State tax
16 dollars. The defendants will still be able to enforce controlled substances thru the
17 Washington State Controlled Substances Act and continue to use the Washington State
18 court which prosecutes 80 percent or more of the drug cases anyway, and the federal agencies
19 will still be able to cooperate with the state agencies.

20 On the other hand if this motion is not granted, Worthington and similarly situated
21 Washington State medical marijuana patients will have their medical treatment for long
22 term pain management illegally regulated by multi jurisdictional task force agreements
23 which were written with the sole intention of undermining the Washington State medical
24 marijuana law, using the state of Washington's own tax dollars and law enforcement
25 personnel. Worthington (and similarly situated Washington State medical marijuana
26

1 patients) will be forced back onto harmful pharmaceutical products which are no longer
2 suitable for treating Worthington's pain management and will cause Worthington to
3 suffer a slow and torturing death caused by internal bleeding from years of the over use
4 of pharmaceutical products for long term pain management. In addition, the federal
5 government would be forced to allow the state's to be the testing grounds for new policies
6 to offer alternatives for patients whom have no other options for long term pain
7 management other than to suffer a slow and lingering death. The privacy of Washington
8 State citizens is also at stake, as well as the right to be free of US. Military in
9 Washington State police actions. Therefore, "the balance of equities tips in plaintiffs'
10 favor", "Winter, 129 S.Ct.at 374

11 CONCLUSION

12 As detailed above, Worthington's motion for preliminary injunction easily meets
13 every prong of both the "traditional" and "alternative sliding scale" tests. FRCP 65 (c)
14 requires a moving party to enter into a bond. However, Since Worthington and thousands
15 of Washington State medical marijuana patients' health and in some cases lives would be
16 jeopardized, Worthington is asking for a nominal bond of 1 dollar. The Defendants will
17 not suffer any harm from this injection and will simply have to perform the duties
18 required of them by Washington State law.

19 For the reasons above, Worthington requests that the court grant this motion for
20 preliminary injunction enjoining the Defendants from enforcing the TNET and similar
21 Multi Jurisdictional Drug Task force interlocal agreements or any similar agreements to
22 work for the DEA; or using FLIR thermal imaging without probable cause or a warrant as
23 required by state and federal law; and from converting the Washington State National Guard
24 to a federal status to conduct U.S. Military operations in a state police action in violation of the
25 Posse Comitatus Act.

1 Worthington requests that the injunction stay in effect until the pending civil action
2 against the Defendants is resolved.

3
4 DATED at Renton Washington this 12th day of February, 2010

5
6 By: s/ John Worthington

7
8 JOHN WORTHINGTON Pro Se
4500 SE 2ND PL
9 RENTON WA.98059

10 **CERTIFICATE OF SERVICE**

11 I certify that on the date and time indicated below, I caused to be served by the
12 manor indicated a copy of the documents and pleadings listed below upon the
13 attorneys of record for the defendants herein listed and indicated below.
14

- 15 1. Plaintiff's Motion and Memorandum in support of Motion for Preliminary
16 Injunction
17 2. Certificate of Service
18 3. Declaration in support of Plaintiff's Motion and Memorandum in
19 support of Motion for Preliminary Injunction
20 4. Proposed Order granting Plaintiff's motion for Preliminary Injunction;

21 Attorneys for defendants;
22

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